

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

SCOTT BLAIR,

Plaintiff,

v.

ALSTOM TRANSPORTATION, INC. and
KAWASAKI RAIL CAR, INC.,

Defendants.

C.A. No. 1:16-cv-03391-PAE-JLC

SUPPLEMENTAL DECLARATION OF MARK A. CHAPMAN

I, Mark A. Chapman, declare as follows:

1. I submit this supplemental declaration in support of Defendant Kawasaki Rail Car, Inc.'s Motion for Judgment on the Pleadings, a Finding of Exceptional Case, and Attorneys' Fees and Costs Pursuant to 35 U.S.C. § 285 and Fed. R. Civ. P. 54(d).
2. My declaration executed on December 9, 2019 (Dkt. No. 110) is incorporated by reference herein.
3. As I explained in my previous declaration, the oral hearing in the first IPR (IPR2017-00117) took place on January 26, 2018. On January 29, 2018, the next business day after the hearing, I received a phone call from plaintiff Scott Blair's counsel, Darius Keyhani. During this call, Mr. Keyhani conveyed a settlement offer from Mr. Blair to Kawasaki. Mr. Keyhani acknowledged during the call that the amount of this settlement offer was higher than the last settlement offer that Mr. Blair made to Kawasaki before filing this lawsuit. Mr. Keyhani justified the increased settlement offer based on incurred litigation and IPR expenses. Mr. Keyhani later restated the settlement offer in an email to me on February 27, 2018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 17, 2020


Mark A. Chapman

CERTIFICATE OF SERVICE

I hereby certify that on January 17, 2020, I caused the foregoing document to be electronically filed with the Clerk of the Court using the CM/ECF system which will send notification of such filing to all attorneys of record.

/s/ Sheila Mortazavi